IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 11412 of 1999

Between:
The Regional Manager, APSRTC., Srikakulam.

..... PETITIONER

AND

1. State Transport Appellate Tribunal, A.P., Hyderabad, Rep.by its Presiding Officer.
2. Regional Transport Authority, Srikakulam, Rep.by its Secretary.
3. Smt.S.Krishnaveni, Private Bus Operator, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially in the nature of a writ of certiorari, calling for the records relating to the impugned order dated 27-3-1998 made in A.P.No.165 of 1997, State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order in R.C.No.10493/A1/96 dated 10-2-1997 of the RTA/Srikakulam and directing issue of permit to third respondent on the mofussil service route Tellavalasa, Vanithamandalam and quash the same as being illegal, without jurisdiction and invalid and pass such other and further orders to meet the ends of justice.

Counsel for the Petitioner: MR.K.HARINATH

Counsel for Respondents 1 and 2: G.P. for Transport.

Counsel for Respondent No.3: None appeared.

The Court made the following Order :

Third respondent submitted an application to the second respondent-Regional Transport Authority, Srikakulam for grant of a pacca stage carriage permit on the moffusil service route Tellavalasa to Vanithamandalam via Kambakaya, Narasannapet, Eedulavalasa, Killam and Mobagam. The second respondent rejected the same holding that if any further grant is made on this route, it will lead to competition that will not be conducive to serve the public. Aggrieved by the same, the third respondent filed an appeal before the first respondent-State Transport Appellate Tribunal, Hyderabad, which allowed the same holding that the third respondent is entitled to grant of stage carriage permit as the total length of the route is 21.1 kms., overlapping on the notified route in G.O.Ms.No.1145 is 4.8 kms., and notified route in G.O.Ms.No.1152 of 1986 is 5 k.m., and non-notified route length is 8.5 kms., at one place and 2.8 kms., at another place and the impugned order shows nothing about objection for overlapping. The first respondent further directed the second respondent to issue stage carriage permit as moffusil service as prayed for by the third respondent. Assailing the correctness of the above, the present writ petition is filed contending that the route in question is 21.5 kms., and it overlaps the notified route, Visakhapatnam-Ichapuram approved in G.O.Ms.No.605, dated 19-05-1975, for a distance of 0.5 kms., from Vanithamandalam X road to Naragannapet.

Heard the learned Counsel for the petitioner. None appeared for the third respondent in spite of service of notice.

This Court in **DIVISIONAL MANAGER APSRTC, VIZIANAGARAM v. STATE TRANSPORT APPELLATE TRIBUNAL,**

HYDERABAD[1] categorically held that there is a total prohibition of overlapping which includes partial overlapping also, for which the permit cannot be granted. In view of the above said judgment, as the order passed by the first respondent suffers from legal infirmities, the same cannot be sustained.

Accordingly, the writ petition is allowed by setting aside the impugned order. No costs.

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the fourteenth day of June Two Thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, State Transport Appellate Tribunal, A.P., Hyderabad,
2. The Secretary, Regional Transport Authority, Srikakulam,
3. Two C.Cs to the G.P. for Transport, High Court Buildings, Hyderabad (OUT)
4. Two C.D. Copies.

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[1] 2001(6) ALD 408 (F.B.)